

SENATE BILL NO. 500—COMMITTEE ON FINANCE

MARCH 26, 2001

Referred to Committee on Finance

SUMMARY—Revises various provisions of University Securities Law. (BDR 34-915)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the University Securities Law; revising provisions governing security interests in connection with bonds, notes or other borrowings of the University and Community College System of Nevada; authorizing the board of regents of the University of Nevada to delegate its authority concerning the sale of securities; authorizing variable rates of interest on securities; authorizing the investment of pledged revenues and the proceeds of securities in certain investment contracts; authorizing agreements for an exchange of interest rates; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 396 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 6, inclusive, of this act.
3 **Sec. 2. 1. *The creation, perfection, priority and enforcement of a***
4 ***lien on pledged revenues or other money to secure a bond, note or other***
5 ***evidence of borrowing issued under the provisions of the University***
6 ***Securities Law must be as specified in the University Securities Law and***
7 ***in the instruments approved by the board or the officer of the university***
8 ***authorized to issue the bond, note or other evidence of borrowing.***
9 **2. *It is the purpose of this section to provide expressly for the***
10 ***creation, perfection, priority and enforcement of a security interest***
11 ***created by the university in pledged revenues or other money in***
12 ***connection with bonds, notes or other borrowings of the university***
13 ***incurred under the University Securities Law, for the purpose of***
14 ***paragraph (b) of subsection 3 of NRS 104.9109.***
15 **3. *Any lien on pledged revenues or other money created to secure a***
16 ***bond, note or other evidence of borrowing issued pursuant to the***
17 ***provisions of the University Securities Law has priority over any lien***
18 ***thereon created pursuant to the provisions of chapter 104 of NRS, unless***
19 ***otherwise provided in the instrument creating the lien to secure the bond,***



1 *note or other evidence of borrowing issued pursuant to the provisions of*
2 *the University Securities Law.*

3 **Sec. 3.** 1. *The board may, before any sale of securities, whether by*
4 *competitive bid or negotiated sale, delegate to the chancellor of the*
5 *university or the vice chancellor for finance of the university the*
6 *authority to sign a contract for the purchase of the securities or to accept*
7 *a binding bid for the securities subject to the requirements specified by*
8 *the board concerning:*

9 (a) *The rate of interest on the securities;*
10 (b) *The dates on which and the prices at which the securities may be*
11 *called for redemption before maturity;*
12 (c) *The price at which the securities will be sold; and*
13 (d) *The principal amount of the securities and the amount of principal*
14 *maturing in any particular year.*

15 2. *All terms of the securities other than:*

16 (a) *The rate of interest;*
17 (b) *The dates and prices for the redemption of the securities;*
18 (c) *The price for the sale of the securities;*
19 (d) *The principal amount of the securities; and*
20 (e) *The requirements for the principal maturing in particular*
21 *years,*
22 *must be approved by the board before the securities are delivered.*

23 3. *The final rate of interest, dates and prices of redemption, price for*
24 *the sale of the securities, principal amount and the requirements for the*
25 *principal amount maturing in particular years are not required to be*
26 *approved by the board if each of those terms complies with the*
27 *requirements specified by the board before the contract for the purchase*
28 *of the securities is signed or the bid for the securities is accepted.*

29 **Sec. 4.** 1. *The resolution authorizing the issuance of any securities*
30 *or any trust indenture or other instrument appertaining thereto may fix a*
31 *rate or rates of interest or provide for the determination of the rate or*
32 *rates from time to time by a designated agent according to the procedure*
33 *specified in that resolution or other instrument. The rate so determined*
34 *must approximate the rates then being paid for other securities which*
35 *contain similar provisions and have an equivalent rating. The board may*
36 *contract with or select any person to make that determination.*

37 2. *The board may enter into an agreement with a third party for an*
38 *assurance of payment of the principal of, the interest on, or premiums, if*
39 *any, due in connection with any securities issued by the board. The*
40 *obligation of the board to reimburse that third party for any advances*
41 *made pursuant to that agreement may be provided in that agreement,*
42 *recited in those securities or evidenced by another instrument as*
43 *designated in the resolution authorizing the issuance of those securities*
44 *or any other instrument appertaining thereto. The board may assign its*
45 *rights under that agreement.*

46 3. *In fixing the rate or rates of interest for securities pursuant to*
47 *subsection 1 or the rate or rates of interest imposed on the board for*
48 *reimbursement of any advances made under an agreement pursuant to*
49 *subsection 2, the board is not subject to any limitations on rates of*



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1 *interest provided by statute, including, without limitation, NRS 396.852.*
2 *The resolution fixing that rate or rates of interest must contain the*
3 *findings of the board that the procedure specified therein for determining*
4 *that rate or rates is reasonable under existing or anticipated conditions in*
5 *the market and is necessary and advisable for marketing the securities.*
6 *These findings are conclusive. This section does not prohibit the board*
7 *from fixing a maximum rate of interest.*

8 **Sec. 5.** *In addition to the investments permitted by NRS 396.861, the*
9 *board, subject to any contractual limitations from time to time imposed*
10 *upon the university by any resolution authorizing the issuance of*
11 *outstanding securities or by any trust indenture or other proceedings*
12 *appertaining thereto, may cause to be invested and reinvested, except as*
13 *otherwise provided in NRS 396.876, any pledged revenues and any*
14 *proceeds of securities issued hereunder in an investment contract that is*
15 *collateralized with securities issued by the Federal Government or*
16 *agencies of the Federal Government if:*

17 1. *The collateral has a market value of at least 102 percent of the*
18 *amount invested and any accrued unpaid interest thereon;*

19 2. *The university receives a security interest in the collateral that is*
20 *fully perfected and the collateral is held in custody for the university or*
21 *its trustee by a third-party agent of the university which is a commercial*
22 *bank authorized to exercise trust powers;*

23 3. *The market value of the collateral is determined not less*
24 *frequently than weekly and, if the ratio required by subsection 1 is not*
25 *met, sufficient additional collateral is deposited with the agent of the*
26 *university to meet that ratio within 2 business days after the*
27 *determination; and*

28 4. *The party with whom the investment contract is executed is a*
29 *commercial bank, or that party or a guarantor of the performance of that*
30 *party is:*

31 (a) *An insurance company which has a rating on its ability to pay*
32 *claims of not less than "Aa2" by Moody's Investors Service, Inc., or*
33 *"AA" by Standard and Poor's Ratings Services, or their equivalent; or*

34 (b) *An entity which has a credit rating on its outstanding long-term*
35 *debt of not less than "A2" by Moody's Investors Service, Inc., or "A" by*
36 *Standard and Poor's Ratings Services, or their equivalent.*

37 **Sec. 6.** 1. *The university, in connection with securities it has issued*
38 *or proposes to issue, may enter into an agreement for an exchange of*
39 *interest rates as provided in this section if the board finds that such an*
40 *agreement would be in the best interests of the university.*

41 2. *The university may enter into an agreement to exchange interest*
42 *rates only if:*

43 (a) *The long-term debt obligations of the person with whom the*
44 *university enters the agreement are rated "A" or better by a nationally*
45 *recognized rating agency; or*

46 (b) *The obligations pursuant to the agreement of the person with*
47 *whom the university enters the agreement are either:*

48 (1) *Guaranteed by a person whose long-term debt obligations are*
49 *rated "A" or better by a nationally recognized rating agency; or*



- 1 (2) Collateralized by obligations deposited with the university or an
2 agent of the university which would be legal investments for the state
3 pursuant to NRS 355.140 and which have a market value at the time the
4 agreement is made of not less than 100 percent of the principal amount
5 upon which the exchange of interest rates is based.
- 6 3. The university may agree, with respect to securities that the
7 university has issued or proposes to issue bearing interest at a variable
8 rate, to pay sums equal to interest at a fixed rate or rates or at a different
9 variable rate determined pursuant to a formula set forth in the agreement
10 on an amount not to exceed the principal amount of the securities with
11 respect to which the agreement is made, in exchange for an agreement to
12 pay sums equal to interest on the same principal amount at a variable
13 rate determined pursuant to a formula set forth in the agreement.
- 14 4. The university may agree, with respect to securities that the
15 university has issued or proposes to issue bearing interest at a fixed rate
16 or rates, to pay sums equal to interest at a variable rate determined
17 pursuant to a formula set forth in the agreement on an amount not to
18 exceed the outstanding principal amount of the securities with respect to
19 which the agreement is made, in exchange for an agreement to pay sums
20 equal to interest on the same principal amount at a fixed rate or rates set
21 forth in the agreement.
- 22 5. The term of an agreement entered into pursuant to this section
23 must not exceed the term of the securities with respect to which the
24 agreement was made.
- 25 6. The university's obligations to make payments under the
26 agreement may be secured by any of the pledged revenues that are
27 pledged to the securities in connection with the agreement as executed,
28 so long as the pledge does not violate the terms of any resolution or other
29 instrument appertaining to outstanding securities issued hereunder.
- 30 7. Limitations upon the rate of interest on securities do not apply to
31 interest paid pursuant to an agreement entered into pursuant to this
32 section.
- 33 8. If the university has entered into an agreement pursuant to this
34 section with respect to those securities, it may treat the amount or rate of
35 interest on the securities as the amount or rate of interest payable after
36 giving effect to the agreement for the purpose of calculating:
- 37 (a) Rates and charges of a revenue-producing enterprise whose
38 revenues are pledged to or used to pay the securities;
- 39 (b) Statutory requirements concerning revenue coverage that are
40 applicable to the securities; and
- 41 (c) Any other amounts which are based upon the rate of interest of the
42 securities.
- 43 9. Subject to covenants applicable to the securities, any payments
44 required to be made by the university under the agreement may be made
45 from pledged revenues that are pledged to pay debt service on the
46 securities with respect to which the agreement was made or from any
47 other legally available source.



- 1 **Sec. 7.** NRS 396.809 is hereby amended to read as follows:
2 396.809 NRS 396.809 to 396.885, inclusive, ~~shall~~ *and sections 2 to*
3 *6, inclusive, of this act may* be known as the University Securities Law.
4 **Sec. 8.** This act becomes effective on July 1, 2001.

